

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION

IN RE: **MINDY KAY SLOAN**
a/k/a **MINDY KAY CLARK**
Debtor

1:16-bk-14945 J
CHAPTER 12

MOTION FOR EX PARTE RELIEF FROM STAY

Comes Stone Bank formerly known as Ozark Heritage Bank, N.A. (the “**Bank**”), and for its Motion for *Ex Parte* Relief from Stay, states:

1. This Motion is brought pursuant to the Confirmed Chapter 12 Plan of Reorganization

Dated June 16, 2017 and its Exhibit A [Doc#80] (the “**Plan**”) and applicable law.

2. As set forth in the Affidavit of Sarah Ort attached hereto as **Exhibit A**, Debtor Mindy Kay Sloan (“**Debtor**”) has failed to pay in full the minimum quarterly payments due and payable on March 20, 2018.

3. Debtor’s failure to make such payments in a timely fashion constitutes a material default under the Plan.

4. As set forth in the Affidavit of undersigned counsel attached hereto as **Exhibit B**, undersigned counsel provided Debtor’s counsel with written notice of said material default on March 23, 2018, in accordance with the Plan.

5. Debtor has failed to fully cure said material default within 10 days after written notice was provided to Debtor’s counsel, as established by the Affidavit of Sarah Ort.

6. Accordingly, the Bank respectfully requests entry of an Order granting the Bank *ex parte* relief from the automatic stay under the Bankruptcy Code without further notice or hearing, which Order provides that the Bank shall have the ability to seek and enforce all of its rights and

remedies under its loan documents and applicable law, which rights and remedies include, but are not limited to, accelerating all debt due and owing by Debtor to the Bank to be immediately due and payable and pursuing all of its rights and remedies against its collateral as described in the Plan and Debtor's interest in that collateral, such as seeking *in rem* relief against the collateral, appointment of a receiver for the collateral, foreclosure of the collateral, and enforcement of its security interests and liens against the collateral for all amounts due and owing by Debtor to the Bank, through filing or continuation of any foreclosure action or pursuing any other appropriate legal or equitable action. Also, as set forth in the Plan, any Order granting relief from the stay as requested herein not be subject to the provisions of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, the Bank prays that it be granted *ex parte* relief from the automatic stay under the Bankruptcy Code without further notice or hearing as set forth herein; that any Order granting relief from the stay as requested herein not be subject to the provisions of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure; and that it be granted all other just and proper relief.

Dated: May 25, 2018

Respectfully submitted,

HOPKINS HEADLEE CASTSTEEL PLLC
Attorneys at Law
1000 West Second Street
Little Rock, Arkansas 72201
www.hopkinslawfirm.com
Telephone: (501) 375-1517
Facsimile: (501) 375-0231
Email: rcaststeel@hopkinslawfirm.com

By: /s/ Ryan J. Caststeel
Ryan J. Caststeel
Arkansas Bar No. 2007212

Attorneys for Stone Bank

CERTIFICATE OF SERVICE

I, Ryan J. Caststeel, hereby certify that on May 25, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which shall send notification of such filing to the following:

Theresa L. Pockrus
THE NIXON LAW FIRM
4100 Wagon Wheel Road
Springdale, AR 72762

Renee Williams, Ch. 12 Trustee
125 Roberts Ridge Terrace
Hot Springs, AR 71901-7286

U.S. Trustee (UST)
Office Of U. S. Trustee
200 W Capitol, Ste. 1200
Little Rock, AR 72201

And all others registered to receive CM/ECF notifications.

I, Ryan J. Caststeel, hereby certify that, on May 25, 2018, I served the foregoing by regular, first class United States mail, postage fully pre-paid, addressed to:

Mindy K. Sloan, Debtor
3640 Luber Road
Mountain View, AR 72560

/s/ Ryan J. Caststeel

AFFIDAVIT OF SARAH ORT

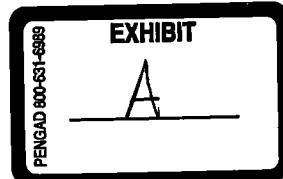
STATE OF ARKANSAS)
)ss.
COUNTY OF SALINE)

Comes Affiant, **Sarah Ort**, and after being duly sworn upon oath, states:

1. My name is Sarah Ort. I am the Vice President, Special Assets for Plaintiff Stone Bank formerly known as Ozark Heritage Bank, N.A. (the “**Bank**”), and I have been authorized to execute this Affidavit on behalf of the Bank. I am an individual over the age of eighteen (18) and competent to testify as to the matters stated in this Affidavit as I supervise Debtor Mindy Kay Sloan’s loans with the Bank and the payments the Bank receives in connection with Debtor’s Chapter 12 Bankruptcy proceeding. Based upon my involvement with the referenced bankruptcy proceeding, I have personal knowledge of the facts set forth herein. Also, based upon my position with the Bank, I am familiar with the business practices of Plaintiff, and I am a custodian of the Bank’s business records.

2. As of the date of the execution of this Affidavit, the Bank has not received payment in full of the minimum quarterly payments in the amount of \$26,850.00 that were due and payable on March 20, 2018, as required under the Confirmed Chapter 12 Plan of Reorganization Dated June 16, 2017 and its Exhibit A [Doc#80] (the “**Plan**”). The Bank is owed in excess of \$21,000 in connection with those minimum quarterly payments.

[Signature on following page]





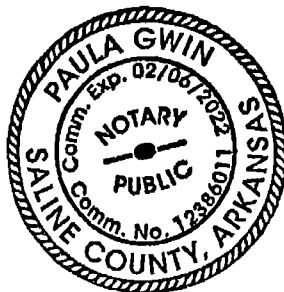
SARAH ORT

SUBSCRIBED AND SWORN to before me, a Notary Public in and for the State of Arkansas, this 24th day of May, 2018.



NOTARY PUBLIC

My commission expires: 2-6-2022



AFFIDAVIT OF RYAN J. CASTSTEEL

STATE OF ARKANSAS)
)ss.
COUNTY OF PULASKI)

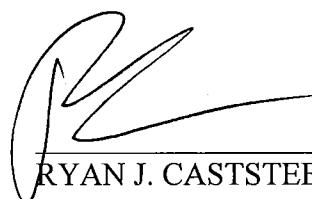
Comes Affiant, Ryan J. Caststeel, and after being duly sworn upon oath, states:

1. My name is Ryan J. Caststeel, and I am counsel for Stone Bank formerly known as Ozark Heritage Bank, N.A. (the “**Bank**”) in this proceeding, *Mindy Kay Sloan*, Case No. 1:16-bk-14945 J, Chapter 12, pending before this Court.

2. I am an individual over the age of eighteen (18) and competent to testify as to the matters stated in this Affidavit. Based upon my involvement as counsel for the Bank in the referenced bankruptcy, I have personal knowledge of the facts set forth herein.

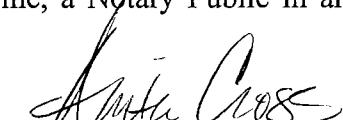
3. On or about March 23, 2018, I learned that Debtor Mindy Kay Sloan (“**Debtor**”) failed to pay in full the minimum quarterly payments due and payable on March 20, 2018, as required under the Confirmed Chapter 12 Plan of Reorganization Dated June 16, 2017 and its Exhibit A [Doc#80] (the “**Plan**”).

4. On that same day, I provided Debtor’s counsel with written notice of the material default. A copy of the correspondence I sent to Debtor’s counsel is attached hereto and incorporated herein as **Exhibit 1**.



RYAN J. CASTSTEEL

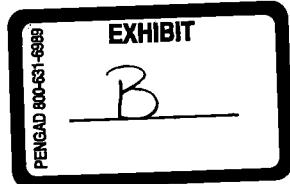
SUBSCRIBED AND SWORN to before me, a Notary Public in and for the State of Arkansas, this 25th day of May, 2018.



ANITA L. CROSS
NOTARY PUBLIC

My commission expires:

10-18-2026



HOPKINS HEADLEE CASTSTEEL PLLC

ATTORNEYS AT LAW

1000 WEST SECOND STREET

LITTLE ROCK, ARKANSAS 72201

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March 23, 2018

VIA EMAIL:theresa@nixonlaw.com

Theresa L. Pockrus, Esq.
The Nixon Law Firm
4100 Wagon Wheel Road
Springdale, AR 72762

Re: In re: Mindy Sloan; 1:16-bk-14945 J/Ch. 12

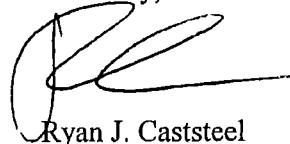
Dear Theresa:

Debtor Mindy Sloan (“Debtor”) has failed to make the required payments due March 20, 2018, owed to Stone Bank under Debtor’s Confirmed Chapter 12 Plan of Reorganization dated June 16, 2017 (the “Plan”) and the corresponding loan documents. The failure to make such payments is a material default under the Plan and the corresponding loan documents.

This letter serves as the 10-day notice to cure material default as provided for in the Plan and any corresponding loan document. Please be advised that Debtor has ten (10) days from the date of this letter to remit to the Chapter 12 Trustee the required payments owed to Stone Bank that were due March 20, 2018. If Debtor fails to cure this material default within that time period, the Bank intends to proceed to seek all appropriate relief against Debtor and the Bank’s collateral.

Please let me know if you have questions. Thank you.

Sincerely,



Ryan J. Caststeel

RJC:

CC: Renee Williams, Trustee (via email)

